

Applicant : OPPER, Reinhold
Serial No. : 10/526,458
Filed : September 1, 2003
Page : 3 of 6

Attorney Docket No. A-10274

REMARKS

Claims 1-4, 6-28, 30, 32 and 34-36 are currently pending in the application.

Applicant respectfully requests reconsideration in light of the following remarks.

Specification

The Examiner objects to the specification because of an informality. Applicant has amended the specification in a manner believed to overcome the objection.

Claim Rejection - 35 U.S.C. § 112

Claims 1-3, 8-16, 18 and 20-27 are rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Particularly, the Examiner asserts that the specification does not reasonably convey to one skilled in the art that the inventors, at the time of filing the application, had possession of the claimed invention with respect to the "blunt projection" feature. Applicant respectfully traverses.

The originally filed specification specifically teaches a blunt projection at least at (see the paragraph bridging pages 2 and 3 of the original specification and the last paragraph on page 4 of the specification). The Examiner appears to believe that something that has or forms a point cannot be blunt. However, this is not the case. A projection may be blunt even if it forms a point if, as in the case of exemplary embodiments of the invention, the point is not fine or sharp. Since the specification specifically teaches a blunt projection, Applicant respectfully requests that the Examiner withdraw this rejection.

Applicant : OPPER, Reinhold
Serial No. : 10/526,458
Filed : September 1, 2003
Page : 4 of 6

Attorney Docket No. A-10274

Claim Rejection - 35 U.S.C. § 102

Claims 1-3, 8, 10, 11, 14-16, 18, 20, 22, 23, 26 and 27 are rejected under 35 U.S.C. § 102(b) as being anticipated by Tendler (U.S. Patent No. 3,398,627). Applicant respectfully traverses.

Claim 1 recites a blunt projection. The present application teaches that a blunt projection allows for the surface of a shank entering the opening to avoid being damaged. (*see* the last paragraph on page 4 of the specification). In direct contrast to the claimed invention, Tendler teaches that the end of the bolt 21 is sharpened into a needle-like point 28. (*see* column 3, lines 17-19). Tendler teaches that such a configuration allows the bolt to be readily driven into a wall in a manner similar to a nail. (*see* column 3, lines 23-27). Accordingly, since Tendler teaches a sharp, needle-like point, it does not disclose a blunt projection as claimed and Tendler does not anticipate claim 1. Tendler also fails to anticipate claim 2 at least for similar reasons. Claims 3, 8, 10, 11, 14-16, 18, 20, 22, 23, 26 and 27 depend from one of claims 1 and 2 and are allowable at least by virtue of their respective dependencies.

Furthermore, inasmuch as the Examiner would now attempt to assert that the claimed invention is obvious over Tendler, Applicant submits that it would not have been obvious to modify Tendler to meet the claimed invention. Particularly, while the present application recognizes that a blunt projection may be advantageous by avoiding damage to a shank, Tendler teaches away from a blunt point, specifically teaching a sharpened, needle-like point. Furthermore, Tendler is directed to a wall anchor that fastener objects such as picture frames, shelf-brackets, hanger-brackets and the like. (*see* column 1, lines

Applicant : OPPER, Reinhold
Serial No. : 10/526,458
Filed : September 1, 2003
Page : 5 of 6

Attorney Docket No. A-10274

27-71). There would have been no reason to modify such a wall anchor to have a blunt projection and such a projection would likely have a negative impact on the performance of the Tendler anchor. It would not have been obvious to modify Tendler to include a blunt projection at least because such a modification would have been in direct contradiction to the teachings of Tendler and would have hindered the operation of the Tendler anchor.

Claim Rejection - 35 U.S.C. § 103

Claim 9, 12, 21 and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tendler. Applicant respectfully traverses.

The Examiner acknowledges that Tendler does not disclose the specific features of these claims, but asserts that it would have been obvious to provide Tendler with the claimed angles and a shallow head. Applicant respectfully disagrees. Tendler specifically teaches an "elongated needle-like wall piercing point" so that it can be driven into the wall. Therefore, the proposed modification would go directly against Tendler's specific teaching and make it unsuitable for driving into a wall for hanging a picture or the like. At least because Tendler teaches away from the proposed modification and the modification would decrease the effectiveness of Tendler for its intended purpose, the modification would not have been obvious. Accordingly, Applicant submits that claims 9, 12, 21 and 24 are allowable over Tendler.

Claims 13 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Tendler in view of Lesowsky (U.S. Patent No. 4,353,673). Claim 13 depends from claim 1 and claim 25 depends from claim 2. The Examiner cites Lesowsky only as

Applicant : OPPER, Reinhold
Serial No. : 10/526,458
Filed : September 1, 2003
Page : 6 of 6

Attorney Docket No. A-10274

allegedly disclosing a fastening element made substantially polygonal. Even if the Office Action's assertions regarding Lesowsky are correct, Lesowsky still would not correct the above-noted deficiencies of Tendler with respect to claims 1 and 2. Accordingly, claims 13 and 25 are allowable at least by virtue of their respective dependencies.


Conclusion

Applicants do not acquiesce to the characterizations of the art. For brevity and to advance prosecution, however, Applicants have not addressed all characterizations of the art, but reserve the right to do so in further prosecution of this or a subsequent application.

The USPTO is also authorized all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account 02-2550. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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